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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,300	12/16/2003	Michael Muller	LOT920030036US1	7679

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EXAMINER

PHAM, MICHAEL

ART UNIT	PAPER NUMBER
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2167

MAIL DATE	DELIVERY MODE
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01/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/737,300

Applicant(s)

MULLER ET AL.

Examiner

Michael D. Pham

M.D.

Art Unit

2167

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-28.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's assert the following:

1. That Ku fails to disclose upon selection of the first level root node, displaying a pop-up window that includes a listing of all second level child nodes of the first level root node immediately adjacent and to a side of the first level root node.

In response, the examiner respectfully disagrees. Applicant's are directed to col. 7 lines 3-13, which states "selecting the use-as-root-node command such as by selecting node F as shown in figure 3, causes the currently open windows 21 and 22 to be updated or rewritten with the information shown in fig. 4. However, in an alternate form of the invention, selecting the use-as-root-node command causes the system to open a new tree structure display window and a new path map window over the currently existing windows 21 and 22. This alternate form of the invention is to be considered equivalent to the rewritten or updated window implementation of the invention." Further disclosing c. 2 l. 57-61, that once a particular node is selected as the root node, a truncated tree structure is displayed showing the selected node as the root node, with the portion of the tree structure is displayed showing the selected node as the root node, with the portion of the tree structure not branching from the selected node being omitted from the display. That is when selecting a node such as node F, a pop up window that includes a listing of all second level child nodes of the first level node immediately adjacent and to a side of the first level root node is displayed (as disclosed in figure 4, elements within window 21). Therefore, that Ku suggests upon selection of the first level root node (e.g. such as selection of a node F), displaying a pop-up window that includes a listing of all second level child nodes of the first level root node immediately adjacent and to a side of the first level root node (e.g. opening a new window tree structure display 21, figure 4 elements within window 21. This is equivalent to rewriting and updating the window.).

2. That Ku fails to disclose selecting one of the second level child nodes from the listing of all second level child nodes included in the pop-up window.

In response the examiner respectfully disagrees. The purpose of Ku's invention is to facilitate navigation among tree nodes c. 2 l. 49-50. Applicant's are again directed to col. 7 lines 3-13, which states "selecting the use-as-root-node command such as by selecting node F as shown in figure 3, causes the currently open windows 21 and 22 to be updated or rewritten with the information shown in fig. 4. However, in an alternate form of the invention, selecting the use-as-root-node command causes the system to open a new tree structure display window and a new path map window over the currently existing windows 21 and 22. This alternate form of the invention is to be considered equivalent to the rewritten or updated window implementation of the invention". Further disclosing c. 2 l. 57-61, that once a particular node is selected as the root node, a truncated tree structure is displayed showing the selected node as the root node, with the portion of the tree structure is displayed showing the selected node as the root node, with the portion of the tree structure not branching from the selected node being omitted from the display. That is, Ku further suggests that other nodes besides F (could be the second level child nodes of F) are then further selected and new windows 21 and 22 are further updated based on the node selections of H and I. Therefore, Ku suggests selecting one of the second level child nodes from the listing of all second level child nodes included in the pop-up window (selection of nodes H or I from window 21 provides a new window 21 and 22 with updated data).

3. That Ku fails to disclose wherein upon selection of one of the second level child nodes, the pop up window that includes the listing of all second level child nodes of the first level root node disappears, and is replaced by the selected second level child node, which is displayed immediately adjacent and to the side of the first level root node.

In response, the examiner respectfully disagrees. Applicant's are again directed to col. 7 lines 3-13, which states "selecting the use-as-root-node command such as by selecting node F as shown in figure 3, causes the currently open windows 21 and 22 to be updated or rewritten with the information shown in fig. 4. However, in an alternate form of the invention, selecting the use-as-root-node command causes the system to open a new tree structure display window and a new path map window over the currently existing windows 21 and 22. This alternate form of the invention is to be considered equivalent to the rewritten or updated window implementation of the invention." Further disclosing c. 2 l. 57-61, that once a particular node is selected as the root node, a truncated tree structure is displayed showing the selected node as the root node, with the portion of the tree structure is displayed showing the selected node as the root node, with the portion of the tree structure not branching from the selected node being omitted from the display. That is to say, Ku suggests wherein upon selection of one of the second level child nodes (e.g. once a particular node is selected (could be a second level child node)), the pop-up window that includes the listing of all second level child nodes of the first level root node disappears, and is replaced by the selected second level child node, which is displayed immediately adjacent and to the side of the first level root node (e.g. opening a new window tree structure display 21, figure 4 elements within window 21. This is equivalent to rewriting and updating the window (e.g. comprises removing old window and then opening new window with new data).)

The reasons given by applicant's are the following (lettered):

A. Ku displays a non-compact interface. Applicant's further asserting that the non-compact interface includes both a tree structure display window 21 for displaying a desired portion of a tree structure 23 including a plurality of nodes 24 starting from a selected node, and a path map window 22 for displaying a representation 26 of each ancestor node that selected node.

As to the examiner's response. What the applicant appears to be suggesting is that because Ku utilizes two windows 21 and 22 that Ku does not disclose a non-compact interface. In response the examiner respectfully disagrees with this assertion. In fact, Ku

discusses a problem from the limited space on a monitor display associated with a computer. Stating that complex structures may require more room than is available on a particular display. Hence a problem that Ku attempts to resolve is to provide a more compact interface thereby allowing better use of monitor space. Ku further suggests another alternate display, wherein a single window form of the invention is to be considered equivalent to the dual window arrangement [c.5 l. 24-27].

B. Ku fails to disclose the use of pop-up windows.

The definition of a pop-up window is a window that appears when an option is selected. Hence, upon selection of a node, a new window opens. Hence, Ku discloses the use of pop-up windows.

C. That the examiner alleges that a vague statement in Ku namely "in an alternate form of the invention, selecting the use-as-root-node command 28 causes the system to open a new tree structure display window and a new path map window over the currently existing windows 21 and 22" (c. 7 l. 6-10) anticipates the "pop-up window" claimed in claim 1, as well as every other "pop-up window" claimed in claims 2, 5, 6, 7, 9, 10, 13, 14, 15, 17, 18, 19, 20, 21, 25, 26, 27. That this is incorrect because Ku does not disclose, nor even suggest, that the new tree structure display window and a new path map window (which the examiner has equated with the claimed "pop-up window") disappear, and are "replaced by the selected second level child node, which is displayed immediately adjacent and to the side of the first level root node" as claimed.

In response, the examiner respectfully disagrees. The purpose of the new tree structure display window is to update the window. Ku suggests that the new tree structure window is updated. Hence comprises disappearing and replacing the data in the window with a new window containing new data. Therefore, Ku does suggest that the new tree structure display window and new path map window disappear and are replaced by the selected second level child node, which is displayed immediately adjacent and to the side of the first level root node. See above 1 and 3.

D. That indeed, there is absolutely no disclosure in Ku that the new tree structure display window and a new path map window (which the examiner has equated with the claimed pop-window) provide any of the functionality of the various pop-up windows claimed in the present invention.

In response the examiner respectfully disagrees. Upon selection of a node, a new tree structure display window and a new path map window appears. Hence they can be construed to be pop-up windows by definition.

E. That Ku fails to disclose first, second, and third level nodes displayed in a linear arrangement, "wherein the first level root node and second level node are live, and wherein the third level node is live if it has any child nodes." Stating that a live node in accordance with the present invention produces an action (e.g. causes a pop-up window to appear) in response to a clicking or other activation of the node [0030, of application]. Further asserting that Ku's path map window 22, however, the representation 25 of the node currently selected for display as the root node and the representation 26 of each ancestor node for that selected node are not "live" and will not produce an action when clicked or otherwise activated.

In response the examiner respectfully disagrees. Applicant's are directed towards c. 7 l. 15-28. selection of representation 26 from path map 22 suggests that nodes 26 and 25 are live nodes e.g. produces an action (i.e. updates windows 21 and 22 when selected). Further more path map 22 provides a first, second, and third level node displayed in linear arrangement, see figure 4 element 25 and 26 of window 22 wherein, the nodes are in linear arrangement.

ey Cammy
Cam of Tuong
Primary Examiner